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Information on Rapid Tax
Amortization Under Section 169
of the Internal Revenue Service

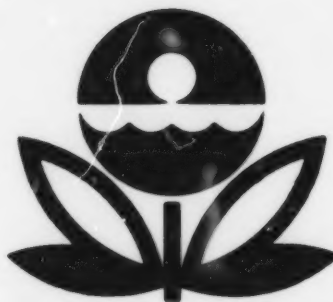
Environmental Protection Agency, Washington, D C

1969

Information on

Rapid Tax Amortization

under section 169 of the Internal Revenue Service



OFFICE OF PUBLIC AFFAIRS
U.S. ENVIRONMENTAL PROTECTION AGENCY
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16. Abstracts Section 169 of the Internal Revenue Code was added by the Tax Reform Act of 1969, Public Law 91-172, effective December 30, 1969. Stated very generally, it permits 5-year straight-line depreciation of pollution abatement facilities placed in operation on or after January 1, 1969 to abate air or water pollution discharged by plants or properties that were in operation before that date. In order to utilize the depreciation method permitted under section 169, taxpayers must file an election in accordance with the regulations set forth in this bulletin. Portions of this document are not fully legible.				
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INFORMATION ON RAPID TAX
AMORTIZATION UNDER SECTION 169
OF THE INTERNAL REVENUE CODE

Section 169 of the Internal Revenue Code was added by the Tax Reform Act of 1969, Public Law 91-172, effective December 30, 1969.

Stated very generally, it permits 5-year straight-line depreciation of pollution abatement facilities placed in operation on or after January 1, 1969 to abate air or water pollution discharged by plants or properties that were in operation before that date.

In order to utilize the depreciation method permitted under section 169, taxpayers must file an election in accordance with the attached regulations of the Treasury Department, published at 36 **Federal Register** 9010, May 18, 1971. (Section 1.169 of those regulations repeats the text of the statute.)

In addition to filing an election with the Internal Revenue Service, a taxpayer must present two certifications: one from the appropriate state authority, as defined in paragraph 169(d)(2) of the statute; another from the federal certifying authority. Although the statute designated the Secretary of the Interior and the Secretary of Health, Education and Welfare as the federal certifying authorities with respect to water and air pollution abatement facilities, respectively, the Administrator of the Environmental Protection Agency became the federal certifying authority with respect to both water and air pollution abatement facilities, by virtue of Reorganization Plan No. 3 of 1970.

EPA certification will be granted by the Regional Administrators of EPA, in accordance with the attached EPA regulations published at 36 **Federal Register** 9509, May 26, 1971. Further guidance to the Regional Administrators was included in the attached Guidelines, published at 36 **Federal Register** 19132, September 29, 1971.

Also included for your information is one copy of each of the following EPA forms:

- Form 3300-1 Application for Certification
- Form 3300-1A Instructions
- Form 3300-2 Notice of State Certification
- Form 3300-3 Notice of Federal Certification

Additional copies of application forms, and further information concerning EPA certification should be requested from the Regional Offices having jurisdiction of the state in which your plant is located. A list of the addresses of the Regional offices, indicating the states included in each Region, follows:

Region I. (Massachusetts, Connecticut, Maine, New Hampshire, Rhode Island, Vermont), Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203

Region II. (New Jersey, New York, Puerto Rico, Virgin Islands), Room 847, 26 Federal Plaza, New York, N.Y. 10007

Region III. (Delaware, Maryland, Pennsylvania, Virginia, District of Columbia), Post Office Box 12900, Philadelphia, Pa. 19108

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Region X. (Alaska, Idaho, Oregon, Washington), 1200 Sixth Avenue, Seattle, Wash. 98101

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7116]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEM- BER 31, 1953

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX RE- FORM ACT OF 1969

Amortization of Pollution Control Facilities

On December 29, 1970, there was published in the FEDERAL REGISTER (35 F.R. 19672) a notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform such regulations to section 169 of the Internal Revenue Code of 1954, relating to amortization of pollution control facilities, as added by section 704 of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 667). After consideration of all such relevant matters as were presented by interested persons regarding the rules proposed, the amendment to the regulations as proposed is hereby adopted, subject to the changes set forth below. Section 1.169-4 of the regulations hereby adopted supersedes those provisions of § 130 of this chapter relating to section 169(b) of the Code, which were prescribed by T.D. 7032, approved March 9, 1970 (35 F.R. 4330).

PARAGRAPH 1. Section 1.169-1 as set forth in paragraph 2 of the notice of proposed rule making is changed by revising subparagraph (6) of paragraph (a), by adding subparagraph (7) to paragraph (a), and by revising example (1) of paragraph (b).

PAR. 2. Section 1.169-2, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising paragraph (a), by revising subparagraph (1) of paragraph (b), by revising subparagraph (2) of paragraph (b) by revising subdivision (ii) thereof, by deleting subdivision (iii) thereof, by redesignating subdivision (iv) thereof as subdivision (iii) and revising so much of such subdivision redesignated as (iii) as precedes (a) thereof, by redesignating subdivision (v) as subdivision (iv) and revising so much of such subdivision redesignated as (iv) as precedes (a) thereof, by revising so much of paragraph (c) (1) as precedes subdivision (i) thereof, by revising subparagraphs (1) (ii) and (2) of paragraph (c), and by revising paragraph (d).

PAR. 3. Section 1.169-3 as set forth in paragraph (2) of the notice of proposed rule making, is changed by revising paragraph (a), by revising sub-

paragraph (1) of paragraph (b), by revising paragraphs (c) and (d), by redesignating the example in paragraph (e) as example (1) and revising it, and by adding example (2) to paragraph (e).

PAR. 4. Section 1.169-4, as set forth in paragraph 2 of the notice of proposed rule making, is changed by revising subparagraphs (1) and (2) of paragraph (a) and by revising subparagraph (1) of paragraph (b).

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

Approved: May 13, 1971.

JOHN S. NOLAN,
Acting Assistant Secretary
of the Treasury.

PARAGRAPH 1. Section 1.169 is amended by deleting section 169 and adding a new section 169 and a historical note to read as follows:

§ 1.169 Statutory provisions; amortiza- tion of pollution control facilities.

Sec. 169. Amortization of pollution control facilities.—(a) Allowance of deduction. Every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subsection (d)), based on a period of 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility for such month provided by section 167. The 60-month period shall begin, as to any pollution control facility, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) Election of amortization. The election of the taxpayer to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility is completed or acquired, or with the taxable year succeeding the taxable year in which such facility is completed or acquired, shall be made by filing with the Secretary or his delegate, in such manner, in such form, and within such time, as the Secretary or his delegate may by regulations prescribe, a statement of such election.

(c) Termination of amortization deduction. A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary or his delegate before the beginning of such month. The depreciation deduction provided under section 167 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled

to any further amortization deduction under this section with respect to such pollution control facility.

(d) Definitions. For purposes of this section—

(1) Certified pollution control facility. The term "certified pollution control facility" means a new identifiable treatment facility which is used, in connection with a plant or other property in operation before January 1, 1969, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and which—

(A) The State certifying authority having jurisdiction with respect to such facility has certified to the Federal certifying authority as having been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination; and

(B) The Federal certifying authority has certified to the Secretary or his delegate (i) as being in compliance with the applicable regulations of Federal agencies and (ii) as being in furtherance of the general policy of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(2) State certifying authority. The term "State certifying authority" means, in the case of water pollution, the State water pollution control agency as defined in section 13(a) of the Federal Water Pollution Control Act and, in the case of air pollution, the air pollution control agency as defined in section 302(b) of the Clean Air Act. The term "State certifying authority" includes any interstate agency authorized to act in place of a certifying authority of the State.

(3) Federal certifying authority. The term "Federal certifying authority" means, in the case of water pollution, the Secretary of the Interior and, in the case of air pollution, the Secretary of Health, Education, and Welfare.

(4) New identifiable treatment facility. For purposes of paragraph (1), the term "new identifiable treatment facility" includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in section 167, which is identifiable as a treatment facility, and which—

(A) Is property—

(i) The construction, reconstruction, or erection of which is completed by the taxpayer after December 31, 1968, or

(ii) Acquired after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date, and

(B) Is placed in service by the taxpayer before January 1, 1975.

In applying this section in the case of property described in clause (4) of subparagraph (A), there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection after December 31, 1968.

(e) Profitmaking abatement works, etc. The Federal certifying authority shall not certify any property under subsection (d) (1)(B) to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) **Amortizable basis**—(1) **Defined.** For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility which may be amortized under this section.

(2) **Special rules.**—

(A) If a certified pollution control facility has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) **Depreciation deduction.** The depreciation deduction provided by section 167 shall, despite the provisions of subsection (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) **Investment credit not to be allowed.** In the case of any property with respect to which an election has been made under subsection (a), so much of the adjusted basis of the property as (after the application of subsection (f)) constitutes the amortizable basis for purposes of this section shall not be treated as section 38 property within the meaning of section 48(a).

(i) **Life tenant and remainderman.** In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(j) **Cross reference.** For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see section 1245.

[Sec. 169 as added by sec. 704, Tax Reform Act 1986 (93 Stat. 667)]

PAR. 2. Sections 1.169-1 through 1.169-8 are amended by deleting them and adding new §§ 1.169-1, 1.169-2, 1.169-3, and 1.169-4 to read as follows:

§ 1.169-1 Amortization of pollution control facilities.

(a) **Allowance of deduction.**—(1) **In general.** Under section 169(a), every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis (as defined in § 1.169-3) of any certified pollution control facility (as defined in § 1.169-2), based on a period of 60 months. Under section 169(b) and paragraph (a) of § 1.169-4, the taxpayer may further elect to begin such 60-month period either with the month following the month in which the facility is completed or acquired or with the first month of the taxable year succeeding the taxable year in which such facility is completed or acquired. Under section 169(c), a taxpayer who has elected under section 169(b) to take the amortization deduction provided by section 169(a) may, at any time after making such election and prior to the expiration of the 60-month amortization period, elect to discontinue the amortiza-

tion deduction for the remainder of the 60-month period in the manner prescribed in paragraph (b)(1) of § 1.169-4. In addition, if on or before May 18, 1971, an election under section 169(a) has been made, consent is hereby given to revoke such election without the consent of the Commissioner in the manner prescribed in (b)(2) of § 1.169-4.

(2) **Amount of deduction.** With respect to each month of such 60-month period which falls within the taxable year, the amortization deduction shall be an amount equal to the amortizable basis of the certified pollution control facility at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in such 60-month period. The amortizable basis at the end of any month shall be computed without regard to the amortization deduction for such month. The total amortization deduction with respect to a certified pollution control facility for a taxable year is the sum of the amortization deductions allowable for each month of the 60-month period which falls within such taxable year. If a certified pollution control facility is sold or exchanged or otherwise disposed of during 1 month the amortization deduction (if any) allowable to the original holder in respect of such month shall be that portion of the amount to which such person would be entitled for a full month which the number of days in such month during which the facility was held by such person bears to the total number of days in such month.

(3) **Effect on other deductions.** (i) The amortization deduction provided by section 169 with respect to any month shall be in lieu of the depreciation deduction which would otherwise be allowable under section 167 or a deduction in lieu of depreciation which would otherwise be allowable under paragraph (b) of § 1.162-11 for such month.

(ii) If the adjusted basis of such facility as computed under section 1011 for purposes other than the amortization deduction provided by section 169 is in excess of the amortizable basis, as computed under § 1.169-3, such excess shall be recovered through depreciation deductions under the rules of section 167. See section 169(g).

(iii) See section 179 and paragraph (e)(1)(ii) of § 1.179-1 and paragraph (b)(2) of § 1.169-3 for additional first-year depreciation in respect of a certified pollution control facility.

(4) **Investment credit not to be allowed.** In the case of any property with respect to which an election has been made under section 169(a), so much of the adjusted basis of the property as constitutes the amortizable basis, as computed under § 1.169-3, shall not be treated as section 38 property within the meaning of section 48(a). See section 169(h).

(5) **Special rules.** (i) In the case of a certified pollution control facility held by one person for life with the remainder to another person, the amortization deduction under section 169(a) shall be

computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant during his life.

(ii) If the assets of a corporation which has elected to take the amortization deduction under section 169(a) are acquired by another corporation in a transaction to which section 381 (relating to carryovers in certain corporate acquisitions) applies, the acquiring corporation is to be treated as if it were the distributor or transferor corporation for purposes of this section.

(iii) For the right of estates and trusts to amortize pollution control facilities see section 642(f) and § 1.642(f)-1. For the allowance of the amortization deduction in the case of pollution control facilities of partnerships, see section 703 and § 1.703-1.

(6) **Depreciation subsequent to discontinuance or in the case of revocation of amortization.** A taxpayer which elects in the manner prescribed under paragraph (b)(1) of § 1.169-4 to discontinue amortization deductions or under paragraph (b)(2) of § 1.169-4 to revoke an election under section 169(a) with respect to a certified pollution control facility is entitled, if such facility is of a character subject to the allowance for depreciation provided in section 167, to a deduction for depreciation (to the extent allowable) with respect to such facility. In the case of an election to discontinue an amortization deduction, the deduction for depreciation shall begin with the first month as to which such amortization deduction is not applicable and shall be computed on the adjusted basis of the property as of the beginning of such month (see section 1011 and the regulations thereunder). Such depreciation deduction shall be based upon the remaining portion of the period authorized under section 167 for the facility as determined, as of the first day of the first month as of which the amortization deduction is not applicable. If the taxpayer so elects to discontinue the amortization deduction under section 169(a), such taxpayer shall not be entitled to any further amortization deduction under this section and section 169(a) with respect to such pollution control facility. In the case of a revocation of an election under section 169(a), the deduction for depreciation shall begin as of the time such depreciation deduction would have been taken but for the election under section 169(a). See paragraph (b)(2) of § 1.169-4 for rules as to filing amended returns for years for which amortization deductions have been taken.

(7) **Definitions.** Except as otherwise provided in § 1.169-2, all terms used in section 169 and the regulations thereunder shall have the meaning provided by this section and §§ 1.169-2 through 1.169-4.

(b) **Examples.** This section may be illustrated by the following examples:

Example (1). On September 30, 1970, the X Corporation, which uses the calendar year as its taxable year, completes the installation of a facility all of which qualifies as a certi-

ned pollution control facility within the meaning of paragraph (a) of § 1.169-2. The cost of the facility is \$120,000 and the period referred to in paragraph (a) (6) of § 1.169-2 is 10 years in accordance with the rules set forth in paragraph (a) of § 1.169-4, on its income tax return filed for 1970, X elects to take amortization deductions under section 169(a) with respect to the facility and to begin the 60-month amortization period with October 1970, the month following the month in which it was completed. The amortizable basis at the end of October 1970 (determined without regard to the amortization deduction under section 169(a) for that month) is \$120,000. The allowable authorization deduction with respect to such facility for the taxable year 1970 is \$6,000, computed as follows:

Monthly amortization deductions:	
October: \$120,000 divided by 60.....	\$2,000
November: \$118,000 (that is, \$120,000 minus \$2,000) divided by 59.....	2,000
December: \$118,000 (that is, \$118,000 minus \$2,000) divided by 58.....	2,000
Total amortization deduction for 1970.....	6,000

Example (2). Assume the same facts as in example (1). Assume further that on May 20, 1972, X properly files notice of its election to discontinue the amortization deductions with the month of June 1972. The adjusted basis of the facility as of June 1, 1972, is \$80,000, computed as follows:

Yearly amortization deductions:	
1970 (as computed in example (1)).....	\$6,000
1971 (computed in accordance with example (1)).....	24,000
1972 (for the first 5 months of 1972 computed in accordance with example (1)).....	10,000
Total amortization deductions for 20 months.....	40,000
Adjusted basis as beginning of amortization period.....	120,000
Less: Amortization deductions.....	40,000
Adjusted basis as of June 1, 1972.....	80,000

Beginning as of June 1, 1972, the deduction for depreciation under section 167 is allowable with respect to the property on its adjusted basis of \$80,000.

(a) **Certified pollution control facility**—(1) *In general.* Under section 169 (d), the term "certified pollution control facility" means a facility which—

(i) The Federal certifying authority certifies, in accordance with the rules prescribed in paragraph (c) of this section, is a "treatment facility" described in subparagraph (2) of this paragraph, and

(ii) Is "a new identifiable facility" (as defined in paragraph (b) of this section).

For profitmaking abatement works limitation, see paragraph (d) of this section.

(2) **Treatment facility.** For purposes of subparagraph (1)(i) of this paragraph, a "treatment facility" is a facility which (i) is used to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, or storing of pollutants, contaminants, wastes, or heat and (ii) is used

in connection with a plant or other property in operation before January 1, 1969. Determinations under subdivision (i) of this subparagraph shall be made solely by the Federal certifying authority. See subparagraph (3) of this paragraph. For meaning of the phrases "plant or other property" and "in operation before January 1, 1969," see subparagraphs (4) and (5), respectively, of this paragraph.

(3) **Facilities performing multiple functions or used in connection with several plants, etc.** (i) If a facility is designed to perform or does perform a function in addition to abating or controlling water or atmospheric pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes, or heat such facility shall be a treatment facility only with respect to that part of the cost thereof which is certified by the Federal certifying authority as attributable to abating or controlling water or atmospheric pollution or contamination. For example, if a machine which performs a function in addition to abating water pollution is installed at a cost of \$100,000 in, and is used only in connection with, a plant which was in operation before January 1, 1969, and if the Federal certifying authority certifies that \$30,000 of the cost of such machine is allocable to its function of abating water pollution, such \$30,000 will be deemed to be the adjusted basis for purposes of determining gain for purposes of paragraph (a) of § 1.169-3.

(ii) If a facility is used in connection with more than one plant or other property, and at least one such plant or other property was not in operation before January 1, 1969, such facility shall be a treatment facility only to the extent of that part of the cost thereof certified by the Federal certifying authority as attributable to abating or controlling water or atmospheric pollution in connection with plants or other property in operation before January 1, 1969. For example, if a machine is constructed after December 31, 1968, at a cost of \$100,000 and is used in connection with a number of plants only some of which were in operation before January 1, 1969, and if the Federal certifying authority certifies that \$20,000 of the cost of such machine is allocable to its function of abating or controlling water pollution in connection with the plants or other property in operation before January 1, 1969, such \$20,000 will be deemed to be the adjusted basis for purposes of determining gain for purposes of paragraph (a) of § 1.169-3. In a case in which the Federal certifying authority certifies the percentage of a facility which is used in connection with plants or other property in operation before January 1, 1969, the adjusted basis for the purposes of determining gain for purposes of paragraph (a) of § 1.169-3 of the portion of the facility so used shall be the adjusted basis for determining gain of the entire facility multiplied by such percentage.

(4) **Plant or other property.** As used in subparagraph (2) of this paragraph, the phrase "plant or other property"

means any tangible property whether or not such property is used in the trade or business or held for the production of income. Such term includes, for example, a papermill, a motor vehicle, or a furnace in an apartment house.

(5) **In operation before January 1, 1969.** (i) For purposes of subparagraph (2) of this paragraph and section 169 (d), a plant or other property will be considered to be in operation before January 1, 1969, if prior to that date such plant or other property was actually performing the function for which it was constructed or acquired. For example, a papermill which is completed in July 1968, but which is not actually used to produce paper until 1969 would not be considered to be in operation before January 1, 1969. The fact that such plant or other property was only operating at partial capacity prior to January 1, 1969, or was being used as a standby facility prior to such date, shall not prevent its being considered to be in operation before such date.

(ii) (a) A piece of machinery which replaces one which was in operation prior to January 1, 1969, and which was a part of the manufacturing operation carried on by the plant but which does not substantially increase the capacity of the plant will be considered to be in operation prior to January 1, 1969. However, an additional machine that is added to a plant which was in operation before January 1, 1969, and which represents a substantial increase in the plant's capacity will not be considered to have been in operation before such date. There shall be deemed to be a substantial increase in the capacity of a plant or other property as of the time its capacity exceeds by more than 20 percent its capacity on December 31, 1968.

(b) In addition, if the total replacements of equipment in any single taxable year beginning after December 31, 1968, represent the replacement of a substantial portion of a manufacturing plant which had been in operation before such date, such replacement shall be considered to result in a new plant which was not in operation before such date. Thus, if a substantial portion of a plant which was in existence before January 1, 1969, is subsequently destroyed by fire and such substantial portion is replaced in a taxable year beginning after that date, such replacement property shall not be considered to have been in operation before January 1, 1969. The replacement of a substantial portion of a plant or other property shall be deemed to have occurred if, during a single taxable year, the taxpayer replaces manufacturing or production facilities or equipment which comprises such plant or other property and which has an adjusted basis (determined without regard to the adjustments provided in section 1016(a) (2) and (3)) in excess of 20 percent of the adjusted basis (so determined) of such plant or other property determined as of the first day of such taxable year.

(6) **Useful life.** For purposes of sec-

tion 169 and the regulations thereunder, the terms "useful life" and "actual useful life" shall mean the shortest period authorized under section 167 and the regulations thereunder if an election were not made under section 169.

(b) *New identifiable facility*—(1) *In general.* For purposes of paragraph (a)(1)(ii) of this section, the term "new identifiable facility" includes only tangible property (not including a building and its structural components referred to in subparagraph (2)(i) of this paragraph, other than a building and its structural components which under subparagraph (2)(ii) of this paragraph is exclusively a treatment facility) which—

(i) Is of a character subject to the allowance for depreciation provided in section 167.

(ii)(a) Is property the construction, reconstruction, or erection (as defined in subparagraph (2)(iii) of this paragraph) of which is completed by the taxpayer after December 31, 1968, or

(b) Is property acquired by the taxpayer after December 31, 1968, if the original use of the property commences with the taxpayer and commences after such date (see subparagraph (2)(iii) of this paragraph), and

(iii) Is placed in service (as defined in subparagraph (2)(v) of this paragraph) prior to January 1, 1975.

(2) *Meaning of terms.* (i) For purposes of subparagraph (1) of this paragraph, the terms "building" and "structural component" shall be construed in a manner consistent with the principles set forth in paragraph (e) of § 1.148-1. Thus, for example, the following rules are applicable:

(a) The term "building" generally means any structure or edifice enclosing a space within its walls, and usually covered by a roof, the purpose of which is, for example, to provide shelter or housing, or to provide working, office, parking, display, or sales space. The term includes, for example, structures such as apartment houses, factory and office buildings, warehouses, barns, garages, railway or bus stations, and stores. Such term includes any such structure constructed by, or for, a lessee even if such structure must be removed, or ownership of such structure reverts to the lessor, at the termination of the lease. Such term does not include (1) a structure which is essentially an item of machinery or equipment, or (2) an enclosure which is so closely combined with the machinery or equipment which it supports, houses, or serves that it must be replaced, retired, or abandoned contemporaneously with such machinery or equipment, and which is depreciated over the life of such machinery or equipment. Thus, the term "building" does not include such structures as oil and gas storage tanks, grain storage bins, silos, fractionating towers, blast furnaces, coke ovens, brick kilns, and coal tipples.

(b) The term "structural components" includes, for example, chimneys, and other components relating to the

operating or maintenance of a building. However, the term "structural components" does not include machinery or a device which serves no function other than the abatement or control of water or atmospheric pollution.

(ii) For purposes of subparagraph (1) of this paragraph, a building and its structural components will be considered to be exclusively a treatment facility if its only function is the abatement or control of air or water pollution. However, the incidental recovery of profits from wastes or otherwise shall not be deemed to be a function other than the abatement or control of air or water pollution. A building and its structural components which serve no function other than the treatment of wastes will be considered to be exclusively a treatment facility even if it contains areas for employees to operate the treatment facility, rest rooms for such workers, and an office for the management of such treatment facility. However, for example, if a portion of a building is used for the treatment of sewage and another portion of the building is used for the manufacture of machinery, the building is not exclusively a treatment facility. The Federal certifying authority will not certify as to what is a building and its structural components within the meaning of subdivision (i) of this subparagraph.

(iii) For purposes of subparagraph (1)(ii)(a) and (b) of this paragraph (relating to construction, reconstruction, or erection after December 31, 1968, and original use after December 31, 1968, and paragraph (b)(1) of § 1.169-3 (relating to definition of amortizable basis), the principles set forth in paragraph (a)(1) and (2) of § 1.167-1 and in paragraphs (b) and (c) of § 1.148-2 shall be applied. Thus, for example, the following rules are applicable:

(a) Property is considered as constructed, reconstructed, or erected by the taxpayer if the work is done for him in accordance with his specifications.

(b) The portion of the basis of property attributable to construction, reconstruction, or erection after December 31, 1968, consists of all costs of construction, reconstruction, or erection allocable to the period after December 31, 1968, including the cost or other basis of materials entering into such work (but not including, in the case of reconstruction of property, the adjusted basis of the property as of the time such reconstruction is commenced).

(c) It is not necessary that materials entering into construction, reconstruction, or erection be acquired after December 31, 1968, or that they be new in use.

(d) If construction or erection by the taxpayer began after December 31, 1968, the entire cost or other basis of such construction or erection may be taken into account for purposes of determining the amortizable basis under section 169.

(e) Construction, reconstruction, or erection by the taxpayer begins when physical work is started on such construction, reconstruction, or erection.

(f) Property shall be deemed to be

acquired when reduced to physical possession or control.

(g) The term "original use" means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. For example, a reconditioned or rebuilt machine acquired by the taxpayer after December 31, 1968, for pollution control purposes will not be treated as being put to original use by the taxpayer regardless of whether it was used for purposes other than pollution control by its previous owner. Whether property is reconditioned or rebuilt property is a question of fact. Property will not be treated as reconditioned or rebuilt merely because it contains some used parts.

(iv) For purposes of subparagraph (1)(iii) of this paragraph (relating to property placed in service prior to January 1, 1975), the principles set forth in paragraph (d) of § 1.146-3 are applicable. Thus, property shall be considered placed in service in the earlier of the following taxable years:

(a) The taxable year in which, under the taxpayer's depreciation practice, the period for depreciation with respect to such property begins or would have begun, or

(b) The taxable year in which the property is placed in a condition or state of readiness and availability for the abatement or control of water or atmospheric pollution.

Thus, if property meets the conditions of (b) of this subdivision in a taxable year, it shall be considered placed in service in such year notwithstanding that the period for depreciation with respect to such property begins or would have begun in a succeeding taxable year because, for example, under the taxpayer's depreciation practice such property is or would have been accounted for in a multiple asset account and depreciation is or would have been computed under an "averaging convention" (see § 1.167(a)-10), or depreciation with respect to such property would have been computed under the completed contract method, the unit of production method, or the retirement method. In the case of property acquired by a taxpayer for use in his trade or business (or in the production of income), property shall be considered in a condition or state of readiness and availability for the abatement or control of water or atmospheric pollution if, for example, equipment is acquired for the abatement or control of water or atmospheric pollution and is operational but is undergoing testing to eliminate any defects. However, materials and parts acquired to be used in the construction of an item of equipment shall not be considered in a condition or state of readiness and availability for the abatement or control of water or atmospheric pollution.

(v) *Certification*—(1) *In general.* For purposes of paragraph (a)(1) of this section, a facility is certified in accordance with the rules prescribed in this paragraph if—

(i) The State certifying authority (as defined in subparagraph (2) of this

paragraph) having jurisdiction with respect to such facility has certified to the Federal certifying authority (as defined in subparagraph (3) of this paragraph) that the facility was constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for the abatement or control of water or atmospheric pollution or contamination applicable at the time of such certification and

(ii) The Federal certifying authority has certified such facility to the Secretary or his delegate as (a) being in compliance with the applicable regulations of Federal agencies (such as, for example, the Atomic Energy Commission's regulations pertaining to radiological discharge (10 CFR Part 20)) and (b) being in furtherance of the general policy of the United States, for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act, as amended (33 USC. 1151-1175) or in the prevention and abatement of atmospheric pollution and contamination under the Clean Air Act, as amended (42 USC. 1857 et seq.).

(2) *State certifying authority.* The term "state certifying authority" means—

(i) In the case of water pollution, the State water pollution control agency as defined in section 23(a) of the Federal Water Pollution Control Act, as amended (33 USC. 1173(a)),

(ii) In the case of air pollution, the air pollution control agency designated pursuant to section 302(b)(1) of the Clean Air Act, as amended (42 USC. 1857(b)(1)), and

(iii) Any interstate agency authorized to act in place of a certifying authority of a State. See section 23(a) of the Federal Water Pollution Control Act, as amended (33 USC. 1173(a)) and section 302(c) of the Clean Air Act, as amended (42 USC. 1857(c)).

(3) *Federal certifying authority.* The term "Federal certifying authority" means the Administrator of the Environmental Protection Agency (see Reorganization Plan No. 3 of 1970, 35 FR 15623).

(d) *Profitmaking abatement works, etc.—(1) In general.* Section 169(e) provides that the Federal certifying authority shall not certify any property to the extent it appears that by reason of estimated profits to be derived through the recovery of wastes or otherwise in the operation of such property its costs will be recovered over the period referred to in paragraph (a)(6) of this section for such property. The Federal certifying authority need not certify the amount of estimated profits to be derived from such recovery of wastes or otherwise with respect to such facility. Such estimated profits shall be determined pursuant to subparagraph (2) of this paragraph. However, the Federal certifying authority shall certify—

(i) Whether, in connection with any treatment facility so certified there is potential cost recovery through the re-

covery of wastes or otherwise, and

(ii) A specific description of the wastes which will be recovered, or the nature of such cost recovery if otherwise than through the recovery of wastes.

For effect on computation of amortizable basis, see paragraph (c) of § 1.169-3.

(2) *Estimated profits.* For purpose of this paragraph, the term "estimated profits" means the estimated gross receipts from the sale of recovered wastes reduced by the sum of the (i) estimated average annual maintenance and operating expenses, including utilities and labor, allocable to that portion of the facility which is certified as a treatment facility pursuant to paragraph (a)(1)(i) of this section which produces the recovered waste from which the gross receipts are derived and (ii) estimated selling expenses. However, in determining expenses to be subtracted neither depreciation nor amortization of the facility is to be taken into account. Estimated profits shall not include any estimated savings to the taxpayer by reason of the taxpayer's reuse or recycling of wastes or other items recovered in connection with the operation of the plant or other property served by the treatment facility.

(3) *Special rules.* The estimates of cost recovery required by subparagraph (2) of this paragraph shall be based on the period referred to in paragraph (a)(6) of this section. Such estimates shall be made at the time the election provided for by section 169 is made and shall also be set out in the application for certification made to the Federal certifying authority. There shall be no redetermination of estimated profits due to unanticipated fluctuations in the market price for wastes or other items, to an unanticipated increase or decrease in the costs of extracting them from the gas or liquid released, or to other unanticipated factors or events occurring after certification.

(4) *Amortizable basis.* The estimates of cost recovery required by subparagraph (2) of this paragraph shall be based on the period referred to in paragraph (a)(6) of this section. Such estimates shall be made at the time the election provided for by section 169 is made and shall also be set out in the application for certification made to the Federal certifying authority. There shall be no redetermination of estimated profits due to unanticipated fluctuations in the market price for wastes or other items, to an unanticipated increase or decrease in the costs of extracting them from the gas or liquid released, or to other unanticipated factors or events occurring after certification.

§ 1.169-3 Amortizable basis.

(a) *In general.* The amortizable basis of a certified pollution control facility for the purpose of computing the amortization deduction under section 169 is the adjusted basis of such facility for purposes of determining gain (see part II section 1012 and following; subchapter O, chapter 1 of the Code), as modified by paragraphs (b), (c), and (d) of this section. For the adjusted basis for purposes of determining gain (computed without regard to such modifications) of a facility which performs a function in addition to pollution control, or which is used in connection with more than one plant or other property, or both, see paragraph (a)(3) of § 1.169-2. For rules as to additions and improvements to such a facility, see paragraph (f) of this section.

(b) *Limitation to post-1968 construction, reconstruction, or erection.* (1) If the construction, reconstruction, or erection was begun before January 1, 1969, there shall be included in the amortizable basis only so much of the adjusted basis of such facility for purposes of

determining gain (referred to in paragraph (a) of this section) as is properly attributable under the rules set forth in paragraph (b)(2)(iii) of § 1.169-2 to construction, reconstruction, or erection after December 31, 1968. See section 169(d)(4). For example, assume a certified pollution control facility for which the shortest period authorized under section 167 is 10 years has a cost of \$500,000, of which \$450,000 is attributable to construction after December 31, 1968. Further, assume such facility does not perform a function in addition to pollution control and is used only in connection with a plant in operation before January 1, 1969. The facility would have an amortizable basis of \$450,000 (computed without regard to paragraphs (c) and (d) of this section). For depreciation of the remaining portion (\$50,000) of the cost, see section 169(g) and paragraph (a)(3)(ii) of § 1.169-1. For the definition of the term "certified pollution control facility" see paragraph (a) of § 1.169-2.

(2) If the taxpayer elects to begin the 60-month amortization period with the first month of the taxable year succeeding the taxable year in which such facility is completed or acquired and a depreciation deduction is allowable under section 167 (including an additional first-year depreciation allowance under section 179) with respect to the facility for the taxable year in which it is completed or acquired, the amount determined under subparagraph (1) of this paragraph shall be reduced by an amount equal to (i) the amount of such allowable depreciation multiplied by (ii) a fraction the numerator of which is the amount determined under subparagraph (1) of this paragraph, and the denominator of which is its total cost. The additional first-year allowance for depreciation under section 179 will be allowable only for the year in which the facility is completed or acquired, only if the taxpayer elects to begin the amortization deduction under section 169 with the taxable year succeeding the taxable year in which such facility is completed or acquired. See paragraph (e)(1)(ii) of § 1.179-1.

(c) *Modification for profitmaking abatement works, etc.* If it appears that by reason of estimated profits to be derived through the recovery of wastes, or otherwise (as determined by applying the rules prescribed in paragraph (d) of § 1.169-2) a portion or all of the total costs of the certified pollution control facility will be recovered over the period referred to in paragraph (a)(6) of § 1.169-2, its amortizable basis (computed without regard to this paragraph and paragraph (d) of this section) shall be reduced by an amount equal to (1) its amortizable basis (so computed) multiplied by (2) a fraction the numerator of which is such estimated profits and the denominator of which is its adjusted basis for purposes of determining gain. See section 169(e).

(d) *Cases in which the period referred to in paragraph (a)(6) of § 1.169-2 exceeds 15 years.* If as to a certified pollu-

tion control facility the period referred to in paragraph (a) (6) of § 1.169-2 exceeds 15 years (determined as of the first day of the first month for which a deduction is allowable under the election made under the section 169(b) and paragraph (a) of § 1.169-4), the amortizable basis of such facility shall be an amount equal to (1) its amortizable basis (computed without regard to this paragraph) multiplied by (2) a fraction the numerator of which is 15 years and the denominator of which is the number of years of such period. See section 169(f) (2) (A).

(e) *Examples.* This section may be illustrated by the following example:

Example (1). The X Corporation, which uses the calendar year as its taxable year, began the installation of a facility on November 1, 1968, and completed the installation on June 30, 1970, at a cost of \$400,000. All of the facility qualifies as a certified pollution control facility within the meaning of paragraph (a) of § 1.169-2. \$40,000 of such cost is attributable to construction prior to January 1, 1969. The X Corporation elects to take amortization deductions under section 169 (a) with respect to the facility and to begin the 60-month amortization period with January 1, 1971. The corporation takes a depreciation deduction under sections 167 and 179 of \$10,000 (the amount allowable, of which \$2,000 is for additional first year depreciation under section 179) for the last 6 months of 1970. It is estimated that over the period referred to in paragraph (a) (6) of § 1.169-2 (30 years) as to such facility, \$80,000 in profits will be realized from the sale of wastes recovered in its operation. The amortizable basis of the facility for purposes of computing the amortization deduction as of January 1, 1971, is \$210,000, computed as follows:

(1) Portion of \$400,000 cost attributable to post-1968 construction, reconstruction, or erection	\$380,000
(2) Reduction for portion of depreciation deduction taken for the taxable year in which the facility was completed:	
(a) \$10,000 depreciation deduction taken for last 6 months of 1970 including \$2,000 for additional first year depreciation under section 179	\$10,000
(b) Multiplied by the amount in line (1) and divided by the total cost of the facility (\$400,000/ \$400,000)	0.9 80,000
(3) Subtotal	\$351,000
(4) Modification for profit making abatement works: Multiply line (3) by estimated profits through waste recovery (\$80,000) and divide by the adjusted basis for determining gain of the facility (\$400,000)	\$70,200
(5) Reduction	\$280,800
(6) Subtotal	\$280,800
(7) Modification for period referred to in paragraph (a) (6) of § 1.169-2 exceeding 15 years: Multiply by 15 years and divide by such period (determined in accordance with paragraph (d) of this section) (30 years)	0.75
(8) Amortizable basis	\$187,850

by such period (determined in accordance with paragraph (d) of this section) (30 years)

0.75

(8) Amortizable basis

\$210,000

Example (3). Assume the same facts as in example (1) except that the facility is used in connection with a number of separate plants some of which were in operation before January 1, 1969, that the Federal certifying authority certifies that 80 percent of the capacity of the facility is allocable to the plants which were in operation before such date, and that all of the waste recovery is allocable to the portion of the facility used in connection with the plants in operation before January 1, 1969. The amortizable basis of such facility, for purposes of computing the amortization deduction as of January 1, 1971, is \$187,850 computed as follows:

(1) Adjusted basis for purposes of determining gain: Multiply percent certified as allocable to plants in operation before January 1, 1969 (80 percent) by cost of entire facility (\$400,000)	\$320,000
(2) Portion of adjusted basis for determining gain attributable to post-1968 construction, reconstruction, or erection: Multiply line (1) by portion of total cost of facility attributable to post-1968 construction, reconstruction, or erection (\$380,000) and divide by the total cost of the facility (\$400,000)	\$308,000
(3) Reduction for portion of depreciation deduction taken for the taxable year in which the facility was completed:	
(a) \$10,000 depreciation deduction taken for last 6 months of 1970 including \$2,000 for additional first year depreciation under section 179	\$10,000
(b) Multiplied by the amount in line (1) and divided by the total cost of the facility (\$400,000/ \$400,000)	0.75 87,200
(4) Subtotal	\$298,000
(5) Modification for profit making abatement works: Multiply line (4) by estimated profits through waste recovery (\$80,000) and divide by the amount in line (1) (\$320,000)	\$76,200
(6) Reduction	\$221,800
(7) Subtotal	\$221,800
(8) Modification for period referred to in paragraph (a) (6) of § 1.169-2 exceeding 15 years: Multiply by 15 years and divide by such period (determined in accordance with paragraph (d) of this section) (30 years)	0.75
(9) Amortizable basis	\$187,850

(f) *Additions or improvements.* (1) If after the completion or acquisition of a certified pollution control facility further expenditures are made for additional construction, reconstruction, or improvements, the cost of such additions or improvements made prior to the beginning

of the amortization period shall increase the amortizable basis of such facility, but the cost of additions or improvements made after the amortization period has begun, shall not increase the amortizable basis. See section 169(f) (2) (B).

(2) If expenditures for such additional construction, reconstruction, or improvements result in a facility which is new and is separately certified as a certified pollution control facility as defined in section 169(d) (1) and paragraph (a) of § 1.169-2, and, if proper election is made, such expenditures shall be taken into account in computing under paragraph (a) of this section the amortizable basis of such new and separately certified pollution control facility.

§ 1.169-4 Time and manner of making elections.

(a) *Election of amortization.* (1) In general. Under section 169(b), an election by the taxpayer to take an amortization deduction with respect to a certified pollution control facility and to begin the 60-month amortization period (either with the month following the month in which the facility is completed or acquired, or with the first month of the taxable year succeeding the taxable year in which such facility is completed or acquired) shall be made by a statement to that effect attached to its return for the taxable year in which falls the first month of the 60-month amortization period so elected. Such statement shall include the following information (if not otherwise included in the documents referred to in subdivision (ix) of this subparagraph):

(i) A description clearly identifying each certified pollution control facility for which an amortization deduction is claimed;

(ii) The date on which such facility was completed or acquired (see paragraph (b) (2) (iii) of § 1.169-2);

(iii) The period referred to in paragraph (a) (6) of § 1.169-2 for the facility as of the date the property is placed in service;

(iv) The date as of which the amortization period is to begin;

(v) The date the plant or other property to which the facility is connected began operating (see paragraph (a) (5) of § 1.169-2);

(vi) The total costs and expenditures paid or incurred in the acquisition, construction, and installation of such facility;

(vii) A description of any wastes which the facility will recover during the course of its operation, and a reasonable estimate of the profits which will be realized by the sale of such wastes whether pollutants or otherwise, over the period referred to in paragraph (a) (6) of § 1.169-2 as to the facility. Such estimate shall include a schedule setting forth a detailed computation illustrating how the estimate was arrived at including every element prescribed in the definition of estimated profits in paragraph (d) (2) of § 1.169-2;

(viii) A computation showing the amortizable basis (as defined in § 1.169-3) of the facility as of the first month for which the amortization deduction provided for by section 169(a) is elected; and

(ix) (a) A statement that the facility has been certified by the Federal certifying authority, together with a copy of such certification, and a copy of the application for certification which was filed with an I approved by the Federal certifying authority or (b), if the facility has not been certified by the Federal certifying authority, a statement that application has been made to the proper State certifying authority (see paragraph (c) (2) of § 1.169-2) together with a copy of such application and a copy of the application filed or to be filed with the Federal certifying authority.

If subdivision (ix) (b) of this subparagraph applies, within 90 days after receipt by the taxpayer, the certification from the Federal certifying authority shall be filed by the taxpayer with the district director, or with the director of the internal revenue service center, with whom the return referred to in this subparagraph was filed.

(2) *Special rule.* If the return for the taxable year in which falls the first month of the 60-month amortization period to be elected was filed before May 18, 1971, or is filed within 60 days after such date, then on or before the 90th day after such date (or if there is no State certifying authority in existence on such date, on or before the 90th day after such authority is established) the election may be made by a statement in an amended income tax return for the taxable year in which falls the first month of the 60-month amortization period so elected. Amended income tax returns or claims for credit or refund must also be filed at this time for other taxable years which are within the amortization period and which are subsequent to the taxable year for which the election is made. Nothing in this paragraph should be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed.

(3) *Other requirements and considerations.* No method of making the election provided for in section 169(a) other than that prescribed in this section shall be permitted on or after May 18, 1971. A taxpayer which does not elect in the manner prescribed in this section to take amortization deductions with respect to a certified pollution control facility shall not be entitled to such deductions. In the case of a taxpayer which elects prior to [such date], the statement required by subparagraph (1) of this paragraph shall be attached to its income tax return for its taxable year in which [such date] occurs.

(b) *Election to discontinue or revoke amortization.*—(1) *Election to discontinue.* An election to discontinue the

amortization deduction provided by section 169(c) and paragraph (a) (1) of § 1.169-1 shall be made by a statement in writing filed with the district director, or with the director of the internal revenue service center, with whom the return of the taxpayer is required to be filed for its taxable year in which falls the first month for which the election terminates. Such statement shall specify the month as of the beginning of which the taxpayer elects to discontinue such deductions. Unless the election to discontinue amortization is one to which subparagraph (2) of this paragraph applies, such statement shall be filed before the beginning of the month specified therein. In addition, such statement shall contain a description clearly identifying the certified pollution control facility with respect to which the taxpayer elects to discontinue the amortization deduction, and, if a certification has previously been issued, a copy of the certification by the Federal certifying authority. If at the time of such election a certification has not been issued (or if one has been issued it has not been filed as provided in paragraph (a) (1) of this section), the taxpayer shall file, with respect to any taxable year or years for which a deduction under section 169 has been taken, a copy of such certification within 90 days after receipt thereof. For purposes of this paragraph, notification to the Secretary or his delegate from the Federal certifying authority that the facility no longer meets the requirements under which certification was originally granted by the State or Federal certifying authority shall have the same effect as a notice from the taxpayer electing to terminate amortization as of the month following the month such facility ceased functioning in accordance with such requirements.

(2) *Revocation of elections made prior to May 18, 1971.* If on or before May 18, 1971, an election under section 169(a) has been made, such election may be revoked (see paragraph (a) (1) of § 1.169-1) by filing on or before August 16, 1971, a statement of revocation of an election under section 169(a) in accordance with the requirements in subparagraph (1) of this paragraph for filing a notice to discontinue an election. If such election to revoke is for a period which falls within one or more taxable years for which an income tax return has been filed, amended income tax returns shall be filed for any such taxable years in which deductions were taken under section 169 on or before August 16, 1971.

PAR. 3. Paragraph (e) (1) of § 1.179-1 is amended to read as follows:

§ 1.179-1 Additional first-year depreciation allowance.

(e) *When allowance is available.* (1) . . .

(ii) In the case of property which the taxpayer elects to amortize under any provision listed in subdivision (iii) of this subparagraph and which property also qualifies as section 179 property, the additional first-year depreciation allowance is not available (except as provided

in this subdivision) unless the taxpayer elects under the applicable provision to begin the amortization deductions under such provision with the succeeding taxable year. If the taxpayer elects to begin the amortization deductions with the month following the month in which the property was completed or acquired or was placed in service (as the case may be), and the property qualifies as section 179 property, the additional first-year allowance is available only with respect to that portion of the property which is not amortizable under the applicable provision. If 100 percent of the property is amortizable under the applicable provision, and if the taxpayer elects under the applicable provision to begin the amortization deductions under such provision with such following month, no additional first-year allowance is available with respect to any portion of the property.

(iii) The provisions of subdivision (ii) of this subparagraph shall apply in the case of the following:

(a) An emergency facility which the taxpayer elects to amortize under the provisions of section 168.

(b) A certified pollution control facility which the taxpayer elects to amortize under the provisions of section 169.

PAR. 4. Section 1.642(f) is amended by revising section 642(f), and by adding a historical note. These amended and added provisions read as follows:

§ 1.642(f) *Statutory provisions; estates and trusts; special rules for credits and deductions; amortization deductions.*

Sec. 642. *Special rules for credits and deductions.* . . .

(f) *Amortization deductions.* The benefit of the deduction for amortization provided by sections 168, 169, 184, and 187 shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary or his delegate.

[Sec. 642(f) as amended by sec. 704(b) (2), Tax Reform Act 1969 (83 Stat. 669)]

PAR. 5. Section 1.642(f)-1 is amended to read as follows:

§ 1.642(f)-1 *Amortization deductions.*

An estate or trust is allowed amortization deductions with respect to an emergency facility as defined in section 168 (d), with respect to a certified pollution control facility as defined in section 169 (d), with respect to qualified railroad rolling stock as defined in section 184 (d), and with respect to certified coal mine safety equipment as defined in section 187 (d), in the same manner and to the same extent as in the case of an individual. However, the principles governing the apportionment of the deductions for depreciation and depletion between fiduciaries and the beneficiaries of an estate or trust (see sections 167 (h) and 611 (b) and the regulations thereunder) shall be applicable with respect to such amortization deductions.

PAR. 6. Section 1.1082 is amended by

revising subparagraph (B) of section 1082(a)(2) and by adding a historical note. These revised and added provisions read as follows:

§ 1.1082 Statutory provisions: basis of property acquired in exchanges and distributions made in obedience to orders of the Securities and Exchange Commission.

Sec. 1082. Basis for determining gain or loss—(a) Exchanges generally. . . .

(2) Exchanges subject to the provisions of section 1081(b). . . .

(B) Property (not described in subparagraph (A)) with respect to which a deduction for amortization is allowable under sections 168, 169, 184, 185, or 187;

[Sec. 1082 as amended by sec. 704(b)(3), Tax Reform Act, 1969 (83 Stat. 669)]

[FR Doc 71-6918 Filed 5-17-71 8 52 am]

FEDERAL REGISTER, VOL. 36, NO. 102
WEDNESDAY, MAY 26, 1971

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter V—Environmental Protection Agency

PART 602—CERTIFICATION OF FACILITIES

On December 29, 1970, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 19686), setting forth the text of regulations proposed to revise Part 602, relating to certification by the Administrator of the Environmental Protection Agency of both air and water pollution control facilities eligible for accelerated amortization in accordance with section 704 of the Tax Reform Act of 1969, Public Law 91-172.

Pursuant to such notice, written comments were received from interested parties, and, due consideration having been given to all such comments, a number of changes have been made in the rules as proposed. Part 602 to Title 18, Chapter V, as set forth below is hereby adopted.

Effective date. This revision shall become effective on the date of its publication in the FEDERAL REGISTER.

Dated: May 21, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

Sec.	
602.1	Applicability.
602.2	Definitions.
602.3	General provisions.
602.4	Notice of intent to certify.

602.5	Applications.
602.6	State certification.
602.7	General policies.
602.8	Requirements for certification.
602.9	Cost recovery.
602.10	Revocation.

AUTHORITY: The provisions of this Part 602 issued pursuant to section 301, 89 Stat. 378, 5 U.S.C. 301, and sec. 704 of the Tax Reform Act of 1969, 83 Stat. 667.

§ 602.1 Applicability.

The regulations of this part apply to certifications by the Administrator of water or air pollution control facilities for purposes of section 169 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 169. Applicable regulations of the Department of the Treasury are set forth at 26 CFR 1.169 et seq.

§ 602.2 Definitions.

As used in this part, the following terms shall have the meaning indicated below:

(a) "Act" means, when used in connection with water pollution control facilities, the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.) or, when used in connection with air pollution control facilities, the Clean Air Act, as amended (42 U.S.C. 1857 et seq.).

(b) "State certifying authority" means:

(1) For water pollution control facilities, the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency;

(2) For air pollution control facilities, the air pollution control agency designated pursuant to section 302(b)(1) of the Act; or

(3) For both air and water pollution control facilities, any interstate agency authorized to act in place of the certifying agency of a State.

(c) "Applicant" means any person who files an application with the Administrator for certification that a facility is in compliance with the applicable regulations of Federal agencies and in furtherance of the general policies of the United States for cooperation with the States in the prevention and abatement of water or air pollution under the Act.

(d) "Administrator" means the Administrator, Environmental Protection Agency.

(e) "Regional Administrator" means the Regional designee appointed by the Administrator to certify facilities under this part.

(f) "Facility" means property comprising any new identifiable treatment facility which removes, alters, disposes of or stores pollutants, contaminants, wastes, or heat.

(g) "State" means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

§ 602.3 General provisions.

(a) An applicant shall file an application in accordance with this part for each separate facility for which certification is sought: *Provided*, That one application shall suffice in the case of substantially identical facilities which the applicant has installed or plans to install in connection with substantially identical properties: *Provided further*, That an application may incorporate by reference material contained in a application previously submitted by the applicant under this part and pertaining to substantially identical facilities.

(b) The applicant shall, at the time of application to the State certifying authority, submit an application in the form prescribed by the Administrator to the Regional Administrator for the region in which the facility is located.

(c) Applications will be considered complete and will be processed when the Regional Administrator receives the completed State certification.

(d) Application may be filed prior or subsequent to the commencement of construction, acquisition, installation, or operation of the facility.

(e) An amendment to an application shall be submitted in the same manner as the original application and shall be considered a part of the original application.

(f) If the facility is certified by the Regional Administrator, notice of certification will be issued to the Secretary of the Treasury or his delegate, and a copy of the notice shall be forwarded to the applicant and to the State certifying authority. If the facility is denied certification, the Regional Administrator will advise the applicant and State certifying authority in writing of the reasons therefor.

(g) No certification will be made by the Regional Administrator for any facility prior to the time it is placed in operation, and the application, or amended application, in connection with such facility so states.

(h) An applicant may appeal any decision of the Regional Administrator when:

- (1) Denies certification;
- (2) Disapproves the applicant's suggested method of allocating costs pursuant to § 602.8(c); or
- (3) Revokes a certification pursuant to § 602.10.

Any such appeal may be taken by filing with the Administrator within 30 days from the date of the decision of the Regional Administrator a written statement of objection. To the degree appealed from. Within 60 days, the Administrator shall affirm, modify or revoke the decision of the Regional Administrator stating in writing the reason therefor.

§ 602.4 Notice of intent to certify.

(a) On the basis of application submitted prior to the construction, reconstruction, extension, or operation of a facility, the Regional Administrator may notify applicants that such facility will be certified if:

- (1) The Regional Administrator de-

termines that such facility, if constructed, reconstructed, erected, acquired, installed, and operated in accordance with such application will be in compliance with requirements identified in § 602.8, an if

(2) The application is accompanied by a statement from the State certifying authority that such facility, if constructed, reconstructed, acquired, erected, installed, and operated in accordance with such application, will be in conformity with the State program or requirements for abatement or control of water or air pollution.

(b) Notice of actions taken under this section will be given to the appropriate State certifying authority.

§ 602.5 Applications.

Applications for certification under this part shall be submitted in such manner as the Administrator may prescribe, shall be signed by the applicant or agent thereof, and shall include the following information:

(a) Name, address, and Internal Revenue Service identifying number of the applicant.

(b) Type and narrative description of the new identifiable facility for which certification is (or will be) sought, including a copy of schematic or engineering drawings, and a description of the function and operation of such facility.

(c) Address (or proposed address) of facility location.

(d) A general description of the operation in connection with which such facility is (or will be) used and a description of the specific process or processes resulting in discharges or emissions which are (or will be) controlled by the facility.

(e) If the facility is (or will be) used in connection with more than one plant or other property, one or more of which were not in operation prior to January 1, 1969, a description of the operations of the facility in respect to each plant or other property, including a reasonable allocation of the costs of the facility among the plants being serviced, and a description of the reasoning and accounting method or methods used to arrive at such allocation.

(f) Description of the effect of such facility in terms of type and quantity of pollutants, contaminants, wastes or heat, removed, altered, stored, or disposed of by such facility.

(g) If the facility performs a function other than removal, alteration, storage, or disposal of pollutants, contaminants, wastes or heat, a description of all functions performed by the facility, including a reasonable identification of the costs of the facility allocable to removal, alteration, storage, or disposal of pollutants, contaminants, wastes or heat, and a description of the reasoning and the accounting method or methods used to arrive at such allocation.

(h) Date when such construction, reconstruction, or erection will be completed or when such facility was (or will be) acquired.

(i) Date when such facility is placed

(or is intended to be placed) in operation.

(j) Identification of the applicable State and local water or air pollution control requirements and standards, if any.

(k) Expected useful life of facility.

(l) Cost of construction, acquisition, installation, operation, and maintenance of the facility.

(m) Estimated profits reasonably expected to be derived through the recovery of wastes or otherwise in the operation of the facility over the period referred to in paragraph (a) (6) of 26 CFR 1.169-2.

(n) Such other information as the Administrator deems necessary for certification.

§ 602.6 State certification.

The State certification shall be by the State certifying authority having jurisdiction with respect to the facility in accordance with 26 U.S.C. 169 (d) (1)(A) and (d) (2). The certification shall state that the facility described in the application has been constructed, reconstructed, erected, or acquired in conformity with the State program or requirements for abatement or control of water or air pollution. It shall be executed by an agent or officer authorized to act on behalf of the State certifying authority.

§ 602.7 General policies.

(a) The general policies of the United States for cooperation with the States in the prevention and abatement of water pollution are: To enhance the quality and value of our water resources; to eliminate or reduce the pollution of the Nation's waters and tributaries thereof; to improve the sanitary condition of surface and underground waters; and to conserve such waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural, industrial, and other legitimate uses.

(b) The general policy of the United States for cooperation with the States in the prevention and abatement of air pollution is to cooperate with and to assist the States and local governments in protecting and enhancing the quality of the Nation's air resources by the prevention and abatement of conditions which cause or contribute to air pollution which endangers the public health or welfare.

§ 602.8 Requirements for certification.

(a) Subject to § 602.9, the Regional Administrator will certify a facility if he makes the following determinations:

(1) It has been certified by the State certifying authority.

(2) It removes, alters, disposes of, or stores pollutants, contaminants, wastes or heat, which, but for the facility, would be released into the environment.

(3) The applicant is in compliance with all regulations of Federal agencies applicable to use of the facility, including conditions specified in any permit issued to the applicant under section 13 of the Rivers and Harbors Act of 1899, as amended.

(4) The facility furthers the general policies of the United States and the States in the prevention and abatement of pollution.

(5) The applicant has complied with all the other requirements of this part and has submitted all requested information.

(c) In determining whether use of a facility furthers the general policies of the United States and the States in the prevention and abatement of water pollution, the Regional Administrator shall consider whether such facility is consistent with the following, insofar as they are applicable to the waters which will be affected by the facility:

(1) All applicable water quality standards, including water quality criteria and plans of implementation and enforcement established pursuant to section 10 (c) of the Act or State laws or regulations.

(2) Recommendations issued pursuant to section 10 (c) and 11 of the Act.

(3) Water pollution control programs established pursuant to section 3 or 7 of the Act.

(d) In determining whether use of a facility furthers the general policies of the United States and the States in the prevention and abatement of air pollution, the Regional Administrator shall consider whether such facility is consistent with and meets the following requirements, insofar as they are applicable to the air which will be affected by the facility:

(1) Plans for the implementation, maintenance, and enforcement of ambient air quality standards adopted or promulgated pursuant to section 110 of the Act.

(2) Recommendations issued pursuant to sections 103 (e) and 115 of the Act which are applicable to facilities of the same type and located in the area to which the recommendations are directed.

(3) Local government requirements for control of air pollution, including emission standards.

(4) Standards promulgated by the Administrator pursuant to the Act.

(5) A facility which removes elements or compounds from fuels which would be released as pollutants when such fuels are burned may not be certified whether or not such facility is used in connection with the applicant's plant or property where such fuels are burned.

(e) Where a facility is used in connection with more than one plant or other property, one or more of which were not in operation prior to January 1, 1969, or where a facility will perform a function other than the removal, alteration, storage, or disposal of pollutants, contaminants, wastes, or heat, the Regional Administrator will so indicate on the notice of certification and will approve or disapprove the applicant's suggested method of allocation of costs. If the Regional Administrator disapproves the applicant's suggested method, he shall identify the proportion of costs allocable to each such plant, or to the removal, alteration, storage or disposal of pollutants, contaminants, wastes, or heat.

§ 602.9 Cost recovery.

Where it appears that, by reason of estimated profits to be derived through the recovery of wastes, through separate charges for use of the facility in question, or otherwise in the operation of such facility, all or a portion of its costs may be recovered over the period referred to in paragraph (a)(6) of 26 CFR 1.169-2, the Regional Administrator shall so signify in the notice of certification. Determinations as to the meaning of the term "estimated profits" and as to the percentage of the cost of a certified facility which will be recovered over such period shall be made by the Secretary of the Treasury, or his delegate. *Provided*, That in no event shall estimated profits be deemed to arise from the use or reuse by the applicant of recovered waste.

§ 602.10 Revocation.

Certification hereunder may be revoked by the Regional Administrator on 30 days written notice to the applicant, served by certified mail, whenever the Regional Administrator shall determine that the facility in question is no longer being operated consistent with the § 602.8 (b) and (c) criteria in effect at the time the facility was placed in service. Within such 30-day period, the applicant may submit to the Regional Administrator such evidence, data or other written materials as the applicant may deem appropriate to show why the certification hereunder should not be revoked. Notification of a revocation under this section shall be given to the Secretary of the Treasury or his delegate. See 26 CFR 1.169-4(b)(1).

[PR Doc 71-7-07 Filed 5-25-71; 8:49 am]

FEDERAL REGISTER, VOL. 36, NO. 189
WEDNESDAY, SEPTEMBER 29, 1971

ENVIRONMENTAL PROTECTION AGENCY

POLLUTION CONTROL FACILITIES

Guidelines for Certification

On May 26, 1971, the Environmental Protection Agency published final regulations in the Federal Register (36 FR 9509) pursuant to section 169 of the Internal Revenue Code of 1954, added by section 704 of the Tax Reform Act of 1969, Public Law 91-172. The EPA regulations are complementary to final regulations issued under section 169 by the Treasury Department, published on May 18, 1971 (36 FR 9010).

The 10 Regional Offices of EPA will be primarily responsible for administration

of the certification procedures. In order to insure that similar applications for certification receive similar treatment in different regional offices, the interpretative guidelines printed below are being issued to the regional offices and are published in the Federal Register for the information of affected members of the public.

Dated: September 23, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator, Environmental
Protection Agency.

GUIDELINES

1. General.
2. Air pollution control facilities.
 - a. Pollution control or treatment facilities normally eligible for certification.
 - b. Air pollution control facility boundaries.
 - c. Examples of eligibility limits.
 - d. Replacement of manufacturing process by another nonpolluting process.
3. Water pollution control facilities.
 - a. Pollution control or treatment facilities normally eligible for certification.
 - b. Examples of eligibility limits.
4. Multiple-purpose facilities.
5. Facilities serving both old and new plants.
6. State certification.
7. Dispersal of pollutants.
8. Profit-making facilities.
9. Multiple applications.

GUIDELINES

1. General. Section 704 of the Tax Reform Act of 1969 (Public Law 91-172, December 30, 1969), added a new section 169, "Amortization of Pollution Control Facilities", to the Internal Revenue Code. The new section provides for the amortization of the cost of certified pollution control facilities over a sixty-month period, if certain conditions are met.

The Act defines a "certified pollution control facility" as a "new identifiable treatment facility" which is:

- (a) Used in connection with a plant or other property in operation before January 1, 1969, to abate or control pollution by removing, altering, disposing of, or storing pollutants, contaminants, wastes or heat;
- (b) Constructed, reconstructed, erected or (if purchased) first placed in service by the taxpayer after December 31, 1968;
- (c) Placed in service before January 1, 1975; and
- (d) Certified by both State and Federal authorities, as provided in section 169(d)(1)(A) and (B).

If the facility is a building, moreover, the statute requires that it be exclusively devoted to pollution control. Most questions as to whether a facility is a "building", and, if so, whether it is "exclusively" devoted to pollution control are resolved by § 1.169-2(b)(2) of the Treasury Department regulations.

2. Air pollution control facilities—*a. Pollution control or treatment facilities normally eligible for certification.* The following devices may constitute such facilities for the removal, alteration, disposal or storage of air pollution:

- (1) Inertial separators (cyclones, etc.).
- (2) Wet collection devices (scrubbers).
- (3) Electrostatic precipitators.
- (4) Cloth filter collectors (baghouses).
- (5) Direct fired afterburners.
- (6) Catalytic afterburners.
- (7) Gas absorption equipment.
- (8) Gas adsorption equipment.
- (9) Vapor condensers.
- (10) Vapor recovery systems.

(11) Floating roofs for storage tanks.

(12) Combinations of the above.

(b) *Air pollution control facility boundaries.* Most facilities are systems consisting of several parts. The facility need not start at the point where the gaseous effluent leaves the last unit of processing equipment, nor will it in all cases extend to the point where the effluent is emitted to the atmosphere or existing stack, breeching, ductwork or vent. It includes all the auxiliary equipment used to operate the control system, such as fans, blowers, ductwork, valves, dampers, electrical equipment, etc. It also includes all equipment used to handle, store, transport, or dispose of the collected pollutant material.

c. *Examples of eligibility limits.* The amortization deduction is limited to any new identifiable treatment facility which removes, alters, disposes of, or stores contaminants or wastes. It is not available for all expenditures for air pollution control and is limited to devices which actually remove, alter, destroy, dispose of or store air pollutants.

(1) *Boiler modifications or replacements.* Modifications of boilers to accommodate "cleaner" fuels are not eligible for amortization; e.g., removal of smokers from a coal-fired boiler and the addition of gas or oil burners. The purpose of the burners is to produce heat, and they do not qualify as air pollution control facilities. A new gas or oil fired boiler that replaced a coal-fired boiler would also be ineligible for certification.

(2) *Fuel processing.* Eligible air pollution control facilities do not include preprocessing equipment which removes potential air pollutants from fuels prior to their combustion. Thus, a desulfurization facility would not be eligible, irrespective of whether it is installed at the plant where the desulfurized coal is burned.

(3) *Incinerators.* The addition of an afterburner, secondary combustion chamber or particulate collector would be eligible.

(4) *Collection devices used to collect product or process material.* In some manufacturing operations, collection devices are used to collect product or process material, as in the case of the manufacture of carbon black. The baghouse would be eligible for certification, but the certification would alert the Treasury Department of the profitable waste recovery involved. See paragraph 8, below.

d. *Replacement of manufacturing process by another nonpolluting process.* An installation will not qualify for certification where it utilizes a process known to be "cleaner" than an alternative, but where it does not actually remove, alter or dispose of pollution; as, for example, a minimally polluting electric induction furnace to melt cast iron which replaces, or is installed instead of a heavily polluting iron cupola furnace. However, if the replacement equipment has an air pollution control device added to it, the control device would be eligible while the process device would not. For example, in the case where a primary copper smelting reverberatory furnace is replaced by a flash smelting furnace, followed by the installation of a contact sulfuric acid plant, the contact sulfuric acid plant would qualify (since it is a control device not necessary to the process), while the flash smelting furnace would not qualify as its purpose is to produce copper matte.

3. *Water Pollution Control Facilities—*
a. Pollution control or treatment facilities normally eligible for certification. The following types of equipment may constitute such facilities for the removal, alteration, disposal or storage of water pollution:

(1) Pretreatment facilities such as those which neutralize or stabilize industrial and/or sanitary waste, from a point immedi-

ately preceding the point of such treatment to a point of disposal to, and acceptance by, a municipal waste treatment facility for final treatment, including the necessary pumping and transmitting facilities.

(2) Treatment facilities such as those which neutralize or stabilize industrial and/or sanitary waste, in compliance with established Federal, State, and local effluent or water quality standards, from a point immediately preceding the point of such treatment to a point of disposal, including the necessary pumping and transmitting facilities.

(3) Ancillary devices and facilities such as lagoons, ponds, and structures for the storage and/or treatment of wastewaters or waste from a plant or other property.

(4) Devices, equipment, or facilities constructed or installed for the primary purpose of recovering a byproduct of the operation (saleable or otherwise), previously lost either to the atmosphere or to the waste effluent. Examples are:

(a) A facility to concentrate and recover vaporous byproducts from a process stream for reuse as raw feedstock or for resale, unless the estimated profits from resale exceed the cost of the facility. See paragraph d, below.

(b) A facility to concentrate and/or remove "gunk" or similar type tars or polymerized tar-like materials from the process waste effluent previously discharged in the plant effluents.

(c) A device used to extract or remove a soluble constituent from a solid or liquid by use of a selective solvent, an open or closed tank or vessel in which such extraction or removal occurs; a diffusion battery of tanks or vessels for countercurrent decantation, extraction, or leaching, etc.

(d) A skimmer or similar device for the removal of greases, oils and fat-like materials from an effluent stream.

b. *Examples of eligibility limits.* (1) In-plant process changes which may prevent the production of pollutants (contaminants, wastes, or heat, but which by themselves cannot be sold to remove, alter, dispose of, or store pollutants, contaminants, wastes, or heat, will not be considered eligible for certification as a water pollution control facility.

(2) Any device, equipment and/or facility which is associated with or included in a disposal system for subsurface injection of untreated or inadequately treated industrial or sanitary waste waters or effluent containing pollutants, contaminants or wastes will not be eligible.

4. *Multiple-purpose facilities.* As the regulations make clear, a facility can qualify for favorable tax treatment if it serves a function other than the abatement of pollution (unless it is a building). Otherwise, the effect might have been to discourage installation of sensible pollution abatement facilities in favor of less efficient single-function facilities which qualified for the deduction.

Accordingly, EPA must decide what percentage of a given facility's cost is properly allocable to its abatement function. The regulations require the applying taxpayer to make such an allocation in his application, and to justify his grounds therefor. The regional offices will review these allocations. Although not generally necessary or desirable for the purpose of such review, on-site inspections may be appropriate in cases involving large sums of money and/or unusual types of equipment.

5. *Facilities serving both old and new plants.* As noted above, the statute requires that a pollution control facility must be used in connection with a plant or other property that was in operation prior to January 1, 1969. When a facility is used in connection with pre-1969 properties as well as

in connection with newer ones, it may qualify for the rapid amortization to the extent it is used in connection with pre-1969 facilities.

Again, the taxpayer will submit his theory of the allocation of the cost of the facility as between old and new plants or properties, and the regional offices will review that allocation. Such an allocation will result in a percentage. The most appropriate method of making such an allocation is to compare the effluent capacity of the pre-1969 plant to the treatment capacity of the control facility. For example, if the old plant has a capacity of 80 units of effluent (but an average output of 60 units), the new plant has a capacity of 40 units (but an average output of 20 units), and the control facility a capacity of 150 units, then 80/150 of the cost of the control facility would be eligible for rapid amortization.

Should a taxpayer present a seemingly reasonable method of allocation different from the foregoing, Regional Office personnel are invited to consult with the Office of Water Programs or the Air Programs Office, whichever is appropriate, and with the Office of the General Counsel.

6. *State certification.* In order to qualify for rapid amortization under section 169, a facility must first be certified by the State as being installed "in conformity with the State program or requirements for abatement or control of water or atmospheric pollution or contamination." Significantly, the statute does not say that installation of a facility must be required by a State. Accordingly, assuming that use of a facility will not contravene any applicable State requirements, it will be eligible for accelerated depreciation. One example would be a facility installed in order to comply with regulations of the Atomic Energy Commission on emissions of radioactive particulates. The same result would obtain in cases where the certifying State had not yet adopted an implementation plan under the Clean Air Act to meet national ambient air quality standards.

It is contemplated that the facts contained in the taxpayer's application, plus the certification from the State agency, will form the basis for EPA certification. By heavily relying on the State's certification, the administrative task of the regional offices can and should be minimized. It is not contemplated that on-site inspection will be necessary or desirable in the majority of cases. Exceptions to the foregoing must of course depend on the exercise of sound judgment by Regional Office personnel.

Of obvious relevance to the exercise of such judgment would be: The volume and toxicity of the discharge sought to be controlled by the facility in question; the amount of money at stake, and experience on the basis of which it may be said that the certifying State agency is in fact ignoring obvious violations of applicable water or air quality standards.

It should be noted that certification of a facility does not constitute the personal warranty of the certifying official that the conditions of the statute have been met, as in the case with a ruling from the Internal Revenue Service itself. EPA certification is only binding on the Government to the extent the submitted facts are accurate and complete.

7. *Dispersal of pollutants.* Section 169 applies to facilities which remove, alter, dispose of, or store pollutants—including heat. The legislative history of the section makes clear a facility which merely disperses pollutants cannot qualify. It is not felt, however, that the legislative intent to disqualify facilities which only disperse pollution is applicable to facilities which dissipate heat; there is no way to "dispose of" heat other than by transferring B.t.U.'s to the environ-

ment. A cooling tower will be eligible for certification, therefore, provided it is used in connection with a pre-1969 plant, as will a cooling pond, or an addition to an outfall structure, the result of which is to lessen the amount by which the temperature of the receiving stream is elevated, and which meets applicable State standards.

8. *Profit-making facilities.* The statute denies favorable tax treatment to facilities the cost of which will be recovered from profits derived through the recovery of waste, "or otherwise."

If an abatement facility recovers marketable wastes, estimated profits on which are not sufficient to recover the entire cost of the facility, the amortizable basis of the facility will be reduced in accordance with Treasury Department regulations. The responsibility of the regional offices will be to identify for the Treasury Department's benefit those cases in which estimated profits will in fact arise, their amount, and the extent to which they can be expected to result in cost recovery, will be determined by the Treasury Department. Accordingly, the responsibility of the regional offices is, for all practical purposes, to notify the Treasury Department when marketable byproducts are recovered by the facility. Such notification will be included in EPA's form of certification.

The phrase "or otherwise" also encompasses situations where the taxpayer is in the business of renting his facility for a fee. In such a case, the facility may theoretically qualify for certification by EPA, the decision as to the extent of its profitability being left to the Treasury Department. Situations may also arise where use of a facility is furnished at no additional charge to a number of users, or to the public, as part of a package of other services. In such a case, no profits will be deemed to arise from operation of the facility unless the other services included in the package are merely ancillary to use of the facility.

It should be noted that § 6029 of the EPA regulations is not meant to affect general principles of Federal income tax law. An individual other than the title holder of a piece of property may be entitled to take depreciation deductions on it, if the arrangements by which he has use of the property may for all practical purposes, be viewed as a purchase. In any such case, the facility could qualify for full rapid amortization, notwithstanding that the title holder charges a separate fee for the use of the facility, as long as the taxpayer—in such a case, the user—does not himself charge a separate fee for the use of the facility.

9. *Multiple applications.* Under EPA regulations, a multiple application may be submitted by a taxpayer who applies for certification of substantially identical pollution abatement facilities used in connection with substantially identical properties. It is not contemplated that use of the multiple application option will be used with respect to facilities in different States, since each such facility would require separate applications for certification from the different States involved. EPA regulations also permit an applicant to incorporate by reference in an application previously filed. The purpose of the provision for incorporation by reference is to avoid the burden of furnishing detailed information (which may, in some instances include portions of catalogs or process flow diagrams) which the certifying official has previously received. Accordingly, material filed with a Regional Office of EPA may be incorporated by reference only in an application subsequently filed with the same regional office.

[FR Doc 71-14267 Filed 9-28-71 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

APPLICATION FOR CERTIFICATION OF POLLUTION CONTROL FACILITY
(Pursuant to Section 169 of the Internal Revenue Code of 1954, as amended)

TO REGIONAL ADMINISTRATOR (Region, Street, City, State,
Zip Code)

THRU APPROPRIATE STATE WATER OR AIR POLLUTION
CONTROL AGENCY (Name of State Agency, Street, City, State,
Zip Code)

Application is hereby made for certification of the pollution control facility described herein. The following information is submitted in accordance with provisions of Part 602 of Title 18 of the Code of Federal Regulations (Volume 36, Federal Register, page 9509, May 26, 1971) and to the best of my knowledge and belief is true and correct.

APPLICANT

DATE

SIGNATURE

STREET ADDRESS CITY STATE ZIP CODE

TITLE

NOTE: READ ACCOMPANYING INSTRUCTIONS CAREFULLY PRIOR TO COMPLETING FORM.

SECTION A - IDENTITY AND LOCATION OF CONTROL FACILITY

1. FULL BUSINESS NAME OF APPLICANT		2. TYPE OF OWNERSHIP ☐ INDIVIDUAL ☐ OTHER (Describe): ☐ PARTNERSHIP ☐ CORPORATION	
3. PERSON TO CONTACT REGARDING THIS APPLICATION (Name and Title)			TELEPHONE
ADDRESS (Street, City, State, Zip Code)			
4. PERSON AUTHORIZED TO RECEIVE CERTIFICATION (Name and Title)			
ADDRESS (Street, City, State, Zip Code)			
5. BUSINESS NAME OF PLANT (If different from Item 1) (Street, City, State, Zip Code)			6. APPLICANT'S EMPLOYER IDENTIFICATION NO.

SECTION B - DESCRIPTION OF CONTROL FACILITY

1. DESCRIBE THE FACILITY FOR WHICH CERTIFICATION IS SOUGHT. INCLUDE TYPE OF EQUIPMENT, MANUFACTURER AND MODEL NUMBER. SUBMIT DESIGN CRITERIA, ENGINEERING REPORT AND OR PERFORMANCE SPECIFICATIONS WHICH DESCRIBE FUNCTION AND OPERATION OF FACILITY.			
2. IS FACILITY IN OPERATION? ☐ YES ☐ NO	A. IF "YES" DATE FACILITY WAS PLACED IN OPERATION	B. IF "NO" DATE FACILITY IS EXPECTED TO BE PLACED IN OPERATION	3. IF FACILITY CONSISTS OF A BUILDING, IS IT EXCLUSIVELY FOR CONTROL OF POLLUTION? ☐ YES ☐ NO

SECTION C - DESCRIPTION OF COMMERCIAL PROCESS OR ACTIVITY

1. DESCRIBE PROCESS OR ACTIVITY IN CONNECTION WITH WHICH FACILITY IS OR WILL BE USED.	
2. STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE NUMBER	
3. DATE THAT EACH PLANT OR OTHER PROPERTY IN CONNECTION WITH WHICH FACILITY IS OR WILL BE USED, COMMENCED OPERATION	
PLANT OR PROPERTY	DATE
A.	
B.	
C.	

SECTION C - DESCRIPTION OF COMMERCIAL PROCESS OR ACTIVITY

4A. IF FACILITY IS OR WILL BE USED IN CONNECTION WITH MORE THAN ONE PLANT OR PROPERTY AND IF ONE OR MORE OF THE PLANTS OR PROPERTIES IN CONNECTION WITH WHICH THE FACILITY IS OR WILL BE USED WAS NOT IN OPERATION PRIOR TO JANUARY 1, 1969, STATE THE PERCENTAGE OF THE COST OF FACILITY WHICH IS ALLOCABLE TO THE PLANT(S) OR PROPERTY(IES) IN OPERATION PRIOR TO THAT DATE.

4B. DESCRIBE THE REASONING AND FURNISH THE DATA USED TO ARRIVE AT THE PERCENTAGE GIVEN IN RESPONSE TO ITEM 4A.

5A. IF FACILITY PERFORMS A FUNCTION OR FUNCTIONS IN ADDITION TO THE ABATEMENT OF POLLUTION, STATE THE PERCENTAGE OF THE COST OF FACILITY ALLOCABLE TO THE ABATEMENT OF POLLUTION.

5B. DESCRIBE THE REASONING AND FURNISH THE DATA USED TO ARRIVE AT THE PERCENTAGE GIVEN IN RESPONSE TO ITEM 5A.

SECTION D - WASTEWATER CHARACTERISTICS (To be completed only in connection with facilities for the control of water pollution)

DESCRIBE THE EFFECT OF POLLUTION CONTROL FACILITY IN TERMS OF QUANTITY AND QUALITY OF EFFLUENT OR WASTEWATER DISCHARGED AND OF WASTES OR BY-PRODUCTS REMOVED, ALTERED OR DISPOSED OF. IF FEASIBLE, ATTACH PROCESS FLOW OR SCHEMATIC DIAGRAM WITH MATERIAL BALANCES OF THE WASTE OR WASTEWATER STREAM OR DISCHARGE. REPORT EITHER ON ACTUAL BASIS OR, IF FACILITY IS NOT YET IN OPERATION, ON DESIGN BASIS (Use Standard Units - pounds, gallon, grams, liter, ppm, etc.)

1. HOURS PLANT OR PROPERTY IS IN OPERATION

a. Per Month Min. _____ Max. _____ Avg. _____
b. Per Year Min. _____ Max. _____ Avg. _____

2. WASTEWATER DISCHARGE IN:
A. GALLONS PER MINUTE
B. MILLIONS OF GALLONS PER MONTH

WITHOUT POLLUTION CONTROL FACILITY

WITH POLLUTION CONTROL FACILITY

a. Min. _____ Max. _____ Avg. _____
b. Min. _____ Max. _____ Avg. _____

Min. _____ Max. _____ Avg. _____
Min. _____ Max. _____ Avg. _____

3. POLLUTANTS OR WASTE PRODUCTS

	Min.	Max.	Avg.	Min.	Max.	Avg.
3.a _____	_____	_____	_____	_____	_____	_____
3.b _____	_____	_____	_____	_____	_____	_____
3.c _____	_____	_____	_____	_____	_____	_____
3.d _____	_____	_____	_____	_____	_____	_____
3.e _____	_____	_____	_____	_____	_____	_____
3.f _____	_____	_____	_____	_____	_____	_____
3.g _____	_____	_____	_____	_____	_____	_____
3.h _____	_____	_____	_____	_____	_____	_____
3.i _____	_____	_____	_____	_____	_____	_____
3.j _____	_____	_____	_____	_____	_____	_____

4. DESCRIBE METHOD (GRAB OR COMPOSITE) AND FREQUENCY OF SAMPLING AND METHODS USED TO DETERMINE QUANTITIES OF POLLUTANTS.

5. IS FACILITY A PRETREATMENT FACILITY TO PREPARE WASTEWATER FOR RECEIPT BY ANOTHER FACILITY, PUBLIC OR PRIVATE, FOR FURTHER TREATMENT? IF "YES", SKIP ITEMS 6, 7 AND 8 AND IDENTIFY RECEIVING FACILITY. ☐ YES ☐ NO

6. IDENTIFY THE BODY OR STREAM OF WATER INTO WHICH WASTEWATER FROM THE PLANT OR PROPERTY, IN CONNECTION WITH WHICH THE FACILITY IS USED, IS OR WILL BE DISCHARGED.

7. DESCRIBE LOCATION OF DISCHARGE OR OUTFALL WITH RESPECT TO RECEIVING WATERS.

8. IS THE RECEIVING BODY OR STREAM OF WATER A NAVIGABLE WATERWAY OF THE UNITED STATES OR A TRIBUTARY THEREOF? ☐ YES ☐ NO IF "NO," PROCEED TO ITEM 9.

A. IF "YES" HAS A U.S. ARMY CORPS OF ENGINEERS DISCHARGE PERMIT BEEN APPLIED FOR? ☐ YES ☐ NO IF "NO," EXPLAIN, THEN PROCEED TO ITEM 9.

B. IF ANSWER TO ITEM 8A IS "YES" HAS A U.S. ARMY CORPS OF ENGINEERS DISCHARGE PERMIT BEEN ISSUED? ☐ YES ☐ NO IF "YES" ATTACH COPY OR PROVIDE PERMIT NUMBER _____ OMIT ITEM 9.

2. IF "NO," EXPLAIN, GIVING DATES OF ANY OFFICIAL ACTION WITH RESPECT TO APPLICATION.

9. IF ITEM 8B HAS NOT BEEN ANSWERED "YES," IDENTIFY APPLICABLE STATE AND LOCAL WATER POLLUTION CONTROL REQUIREMENTS AND STANDARDS.

SECTION E - EMISSION CHARACTERISTICS (To be completed only in connection with facilities for the control of air pollution)

DESCRIBE THE EFFECT OF POLLUTION CONTROL FACILITY IN TERMS OF QUANTITY AND QUALITY OF EMISSION AND OF WASTES OR BY-PRODUCTS REMOVED, ALTERED OR DISPOSED OF. IF FEASIBLE, ATTACH PROCESS FLOW OR SCHEMATIC DIAGRAM WITH MATERIAL BALANCES OF POLLUTANTS IN THE EMISSION STREAM. REPORT EITHER ON ACTUAL BASIS, OR, IF FACILITY IS NOT YET IN OPERATION, ON DESIGN BASIS.

1. HOURS PLANT OR PROPERTY IS IN OPERATION

a. Per Month: Min. _____ Max. _____ Avg. _____
b. Per Year: Min. _____ Max. _____ Avg. _____

2. POLLUTANTS TO BE CONTROLLED (Specify each)

a.
b.
c.
d.

3. VOLUMETRIC FLOW RATE OF EMISSION (actual cubic feet/minute)

WITHOUT POLLUTION CONTROL FACILITY

WITH POLLUTION CONTROL FACILITY

Min. _____ Max. _____ Avg. _____ at _____ F

Min. _____ Max. _____ Avg. _____ at _____ F

4. CONCENTRATION (in volume %, of gaseous components)

a. Min. _____ Max. _____ Avg. _____ at _____ F

Min. _____ Max. _____ Avg. _____ at _____ F

b. Min. _____ Max. _____ Avg. _____ at _____ F

Min. _____ Max. _____ Avg. _____ at _____ F

c. Min. _____ Max. _____ Avg. _____ at _____ F

Min. _____ Max. _____ Avg. _____ at _____ F

d. Min. _____ Max. _____ Avg. _____ at _____ F

Min. _____ Max. _____ Avg. _____ at _____ F

5. CONCENTRATION (grains/cubic feet of all particulate matter)

Min. _____ Max. _____ Avg. _____ at _____ F

Min. _____ Max. _____ Avg. _____ at _____ F

6. CONCENTRATION (grains/cubic feet of any specific particulate listed in E-2 above)

Min. _____ Max. _____ Avg. _____ at _____ F

Min. _____ Max. _____ Avg. _____ at _____ F

7. DESCRIBE METHODS OF DETERMINING RATES, CONCENTRATION AND CHARACTERISTICS OF EMISSIONS.

8. IDENTIFY APPLICABLE STATE AND LOCAL AIR POLLUTION CONTROL REQUIREMENTS AND STANDARDS.

SECTION F - COST INFORMATION (See Note to instructions for this section)

1. IS THERE ANY BY-PRODUCT OR MATERIAL WHICH, WITHOUT THE CONTROL FACILITY, WOULD BE LOST AND WHICH IS RECOVERED THROUGH THE USE OF THE FACILITY? ☐ YES ☐ NO

A. IF YES, IDENTIFY:

B. INDICATE THE DISPOSITION OF EACH TYPE OF RECOVERED MATERIAL, INCLUDING IF APPLICABLE, THE SALE OR SIMILAR DISPOSITION OF RECLAIMED OR RECOVERED MATERIAL TO INDUSTRIAL WASTE RECOVERY FIRMS OR OTHERS.

2. ANNUAL COST RECOVERY	A. MATERIAL RECOVERED AND SOLD	\$
	B. OTHER	\$
	C. TOTAL	\$
3. TOTAL AVERAGE ANNUAL MAINTENANCE AND OPERATING COSTS (Not applicable if no cost recovery is reported in Item 2)		\$

ENVIRONMENTAL PROTECTION AGENCY

INSTRUCTIONS FOR COMPLETING AND FILING EPA FORM 3300-1, APPLICATION
FOR CERTIFICATION OF POLLUTION CONTROL FACILITY
(Pursuant to Part 602 of Title 18 of the Code of Federal Regulations)

GENERAL

1. Applicants are advised that separate regulations pertaining to accelerated depreciation under Section 169 of the Internal Revenue Code have been published by EPA as Part 602, Chapter I, Title 18, Code of Federal Regulations (Volume 36, Federal Register, p. 9509, May 26, 1971) and by the Treasury Department as Section 1.169 of the Income Tax Regulations, Part I, subchapter A, Chapter I, Title 26, Code of Federal Regulations (Volume 36, Federal Register, p. 9010, May 18, 1971). These instructions do not include all the information contained in the statute and regulations, nor do they in any way modify the statute and regulations, to which applicants are encouraged to refer.

2. Applicants seeking certifications of facilities used for pollution control and eligible for rapid amortization as authorized by section 169 of the Internal Revenue Code shall complete one application (original and 3 copies) for each facility for which certification is sought. When necessary, attach additional sheets of paper to furnish required information, referring to the relevant section and item number on each such additional sheet. If any of the information requested on the application form is inapplicable to the facility for which certification is being sought, so indicate by writing the word "inapplicable" in the space provided after each item. In accordance with section 602.3 of the EPA regulations, an application for certification may pertain to several identical control facilities installed at the same plant, and information submitted to support certification of a control facility may be incorporated by reference in a subsequent application pertaining to an identical facility.

3. Applicants shall submit the original of the completed application (with attachments such as drawings, flow sheets, charts or other explanatory material) to the Regional Administrator for the region in which the control facility is located. Copies 1 and 2 of the completed application shall be submitted (with attachments) to the appropriate State Water or Air Pollution Control Agency of the State in which the control facility is located. Copy 3 is for the applicant's files.

4. The responsible State Water or Air Pollution Control Agency may complete the attached State Certification Form, or may use such other form containing substantially the same information, as it may deem appropriate. The completed State Certification, together with Copy 1 of the application and associated documents, should be forwarded by the State Agency to the appropriate EPA Regional Administrator, and a copy of the State Certification furnished the applicant. Copy 2 of the application may be retained by the State Agency for its records.

5. In accordance with section 602.4 of the EPA regulations, the Regional Administrator will notify the applicant and the State Water or Air Pollution Control Agency that Federal certification will be issued if the control facility is completed and operated in accordance with the application. Such a notice of intent to certify shall be issued only after receipt from the State certifying authority of a statement that the facility, if constructed, reconstructed, acquired, erected, installed and operated in accordance with the application, will be in conformity with the State program or requirements for abatement or control of water or air pollution. The Notice of Federal Certification, however, will be issued only if it is determined that the facility has been completed and is operating in accordance with the application, and only after receipt of a completed State Certification. When the application indicates that the facility to which it relates is not yet in operation, such application may be amended by a letter addressed to the Regional Administrator specifying the date on which the facility was placed in operation.

6. Certification of a control facility by an official of the Environmental Protection Agency does not of itself entitle an applicant to rapid amortization pursuant to Section 169 of the Internal Revenue Code. Such entitlement shall be determined by the Commissioner of Internal Revenue in accordance with applicable provisions of the Internal Revenue Code and rules and regulations issued thereunder.

SPECIFIC

SECTION A. IDENTITY AND LOCATION OF POLLUTION CONTROL FACILITY

Items 1 thru 6. Self-explanatory.

SECTION B. DESCRIPTION OF POLLUTION CONTROL FACILITY

Item 1. Include in the description of the control facility a reference to the types of effluents or emissions controlled by the facility, and attach a process flow diagram, if available.

Item 2. In most cases, the date the facility was placed in operation will be easily ascertainable. As is more fully set forth in section 1.169-2 (b) (2) (iv) of the Income Tax Regulations, however, a taxpayer's depreciation practices may affect the determination of when a facility is deemed to be placed in operation.

Item 3. Section 169 does not permit rapid amortization of a building unless it is exclusively devoted to the abatement of pollution. A building which performs no function other than housing or sheltering a pollution control facility is itself considered to be exclusively devoted to the abatement of pollution. The term "building" is explained in section 1.169-2 (b) (2) (ii) of the Income Tax Regulations, which provides, in part, that the term "building" does not include "an enclosure which is so closely combined with the machinery or equipment which it supports, houses, or serves that it must be replaced, retired or abandoned contemporaneously with such machinery or equipment, and which is depreciated over the life of such machinery or equipment."

SECTION C. DESCRIPTION OF COMMERCIAL PROCESS OR ACTIVITY

Item 1. Describe briefly in a narrative manner the general nature of the operation conducted at the location of the control facility.

Item 2. If known, provide the Standard Industrial Classification (SIC) Code number for the activity in connection with which the control facility is used.

Item 3. Self-explanatory.

Item 4. Section 169 permits rapid amortization only of facilities used in connection with a plant or other property in operation prior to January 1, 1969. When a facility serves more than one plant or other property, therefore, it may be necessary to determine the portion of the cost of the facility which is attributable to its use in connection with plants or properties in use prior to January 1, 1969. In many cases, a proper allocation will be based on the effluent output capacities of the plants or properties served, in comparison to the treatment capacity of the facility to which the application relates. Exceptions to the foregoing may be justified if adequately explained in Part (b) of this Item, for example, the effluent capacities of the plants or properties served may differ substantially from the amounts of effluents actually produced and treated over a period of time.

Item 3. Section 109 does not permit certification of a facility to the extent it performs a function other than the control of pollution. When the facility to which the application relates performs such an additional function, it will be necessary to identify that portion of its cost which is allocable only to pollution control. The need to make such an allocation should seldom arise if the facility to which the application relates is defined with as much particularity as circumstances permit. If such need is unavoidable, the proper manner of making the allocation may vary depending on the type of equipment involved. If, for example, the facility serves a production function when it is not being used for abatement purposes, then a proper allocation would be based on the percentage of on-stream time devoted to each of its several functions. If those features of the facility which result in the abatement of pollution are inseparable from its production-related features, then it may be appropriate to make the necessary allocation by reference to the cost of a similar facility which lacks the pollution abatement features.

SECTION D. WASTEWATER CHARACTERISTICS (Water Pollution Control Facilities only)

Item 1. Self-explanatory.

Item 2. Self-explanatory.

Item 3. Provide actual measured or design rates of the wastes (including heat) in wastewater stream as discharged without the pollution control facility and with the pollution control facility. (Such data can be suitably illustrated on a process flow diagram with material balances of the process wastewater stream from input through outflow, or, in cases where actual data are not available, the design capacity or rates as given in an engineering report, catalogue, etc., may be used and such material appended to the application.)

Items 4, 5, 6, 7 and 8. Self-explanatory.

Item 9. If the degree of treatment performed by the facility is required by state or local law or regulation, describe the applicable standard, giving statutory references, if known.

SECTION E. EMISSION CHARACTERISTICS (Air Pollution Control Facilities only)

Item 1. Self-explanatory.

Item 2. On lines designated (a) through (d), list the common name or chemical description of each pollutant the emission of which is to be controlled by the facility. All particulate emissions may be

described in the aggregate as "particulates," unless an applicable State or Federal air quality standard is in effect for a specific type of particulate (e.g., asbestos), in which case such specific type of particulate should be listed separately.

Item 3. Self-explanatory.

Item 4. Provide the indicated information for each type of gaseous emission listed in response to Item 1-2, using for each the line prefixed by the letter corresponding to the line of Item 1-2 on which it is listed.

Items 5 thru 7. Self-explanatory.

Item 8. If the degree of treatment performed by the facility is required by state or local law or regulation, describe the applicable standard, giving statutory references, if known.

SECTION F. COST INFORMATION

NOTE: APPLICANTS MAY, IF THEY WISH, FURNISH THE INFORMATION REQUIRED BY SECTION F ON A SEPARATE SHEET OF PAPER, WHICH NEED BE ATTACHED ONLY TO THE ORIGINAL OF THIS FORM SUBMITTED TO THE REGIONAL ADMINISTRATOR OF EPA. EPA WILL CONSIDER ANY INFORMATION SO FURNISHED AS "CONFIDENTIAL" WITHIN THE MEANING OF SECTION 552(b) OF TITLE 5, UNITED STATES CODE, AND WILL DIVULGE SUCH INFORMATION ONLY TO OFFICIALS AND AGENCIES OF THE UNITED STATES GOVERNMENT.

Item 1. Identify all by-products and materials recovered in the course of operation of the facility to which the application relates, including heat (if it is disposed of other than by dissipation to the atmosphere), whether or not such by-products and materials are recycled, and describe the methods used to dispose of each such by-product or material. Applicants need not impute revenues from recovered by-products or materials used or reused by them in their own operations.

Item 2. In part (a), provide the expected annual dollar amount of revenues from any sales of by-products or materials identified in response to Item 1-1. In part (b), provide the expected annual dollar amount of any other revenues derived from the facility (e.g., rentals, service charges to persons other than the applicant).

Item 3. Provide estimates, if no prior history is available.

ENVIRONMENTAL PROTECTION AGENCY		STATE _____
NOTICE OF STATE CERTIFICATION (Pursuant to Section 169 of the Internal Revenue Code of 1954, as amended)		WATER OR AIR POLLUTION CONTROL AGENCY OR AUTHORITY _____
It is hereby certified that the control facility described in the attached application is in conformity with State and local programs and requirements for the control of ☐ water pollution ☐ air pollution, as required by section 169 of the Internal Revenue Code of 1954, as amended, and regulations issued thereunder. According to the applicant, this control facility ☐ was placed ☐ will be placed in operation on _____. In the case of control facility not yet in operation, this notice is certification only that the control facility, if constructed and operated in accordance with the application, will be in conformity with State and local programs or requirements for abatement or control of water or air pollution.		
1. NAME OF APPLICANT _____	2. PERSON AUTHORIZED TO RECEIVE CERTIFICATION _____	
ADDRESS (Street, City, State, Zip Code) _____	TITLE _____	
	ADDRESS (Street, City, State, Zip Code) _____	
3. DESCRIPTION OF CONTROL FACILITY _____		
4. LOCATION OF CONTROL FACILITY (Street, City, State, Zip Code) _____	5. RECEIVING BODY OR STREAM OF WATER, IF ANY _____	
6. ONE OF THE CONTROL FACILITY CERTIFIED HEREBY IS IN CONFORMITY WITH THE FOLLOWING APPLICABLE STATE PLAN OR REQUIREMENTS FOR THE CONTROL OF ☐ WATER POLLUTION ☐ AIR POLLUTION.		
ISSUED THIS ____ DAY OF _____ 19____	SIGNED (Official of State Agency) _____	
STATE CERTIFICATION NUMBER _____	TITLE _____	

ENVIRONMENTAL PROTECTION AGENCY
NOTICE OF FEDERAL CERTIFICATION
(Pursuant to Section 169 of the Internal Revenue Code of 1954, as amended)

PLEASE TAKE NOTICE that pursuant to section 169 of the Internal Revenue Code of 1954, as amended, and Part 602 of Title 18 of the Code of Federal Regulations, the control facility identified herein

☐ Is certified☐ Will, if constructed, reconstructed, acquired, erected, installed and operated in accordance with the accompanying application, be certified

as being in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of ☐ water pollution ☐ air pollution under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.) or the Clean Air Act, as amended (42 U.S.C. 1857 et seq.). This certification is based on facts furnished by the applicant, and is valid for purposes of section 169 only to the extent that such facts are complete and accurate.

1. NAME OF APPLICANT		ADDRESS (Street City State Zip Code)	
2. EMPLOYER IDENTIFICATION NUMBER			
3. PERSON AUTHORIZED TO RECEIVE CERTIFICATION			
NAME		ADDRESS (Street City State Zip Code)	
TITLE			
4. DESCRIPTION OF CONTROL FACILITY			
5. LOCATION OF CONTROL FACILITY (Street City State Zip Code)			
6. EFFLUENT DISCHARGED TO			
7. THE CONTROL FACILITY IDENTIFIED HEREIN ☐ DOES ☐ DOES NOT GENERATE PROFITS THROUGH THE RECOVERY AND SALES OF WASTES, OR OTHERWISE			
8. THE CONTROL FACILITY IDENTIFIED HEREIN ☐ IS ☐ IS NOT A BUILDING THE ONLY FUNCTION OF WHICH IS THE ABATEMENT OR CONTROL OF POLLUTION, AS DETERMINED IN ACCORDANCE WITH SECTION 1.169-2 (2) (i) OF THE INCOME TAX REGULATIONS			
9. ☐ A. THE CONTROL FACILITY IDENTIFIED HEREIN IS USED ONLY IN CONNECTION WITH PLANTS OR PROPERTIES THAT WERE IN SERVICE ON OR BEFORE DECEMBER 31, 1968 ☐ B. _____% OF THE AMORTIZABLE BASIS OF THE FACILITY IS ALLOCABLE TO ITS USE IN CONNECTION WITH PLANTS OR PROPERTIES THAT WERE IN SERVICE ON OR BEFORE DECEMBER 31, 1968			
10. ☐ A. THE CONTROL FACILITY PERFORMS NO FUNCTION IN ADDITION TO THE ABATEMENT OR CONTROL OF POLLUTION ☐ B. _____% OF THE AMORTIZABLE BASIS OF THE CONTROL FACILITY IS ALLOCABLE TO THE ABATEMENT OR CONTROL OF POLLUTION			
ISSUED		SIGNATURE	
THIS _____ DAY OF _____ 19____			
STATE CERTIFICATION NUMBER		TITLE	